

REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION

July 8, 2003

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FROM: EMIL A. MARZULLO, Director
Special Districts Department

SUBJECT: RESOLUTION CONFIRMING THE PROPOSAL OF A SPECIAL TAX IN COUNTY
SERVICE AREA 70, IMPROVEMENT ZONE G (OAK SPRINGS), CONFIRMING
THE RESULTS OF A MAILED BALLOT SPECIAL TAX ELECTION, AND
CONFIRMING ALL OTHER ACTIONS TAKEN RELATED TO SAID ELECTION

RECOMMENDATION: Acting as the governing body of County Service Area 70, Improvement Zone G ("the District") adopt Resolution No. 03-____, confirming the proposal of a special tax, confirming the results of a mailed ballot special tax election ("election") in the District, and confirming all previous actions taken in connection with said election.

BACKGROUND INFORMATION: Government Code section 50077, subsection (a) provides that a "... district may, following a notice and public hearing, **propose** by **ordinance** or **resolution** the adoption of a special tax." (emphasis added) It provides further that "The **ordinance** or **resolution** shall include the type of tax and rate of tax to be levied, the method of collection, and the date upon which an election shall be held to **approve** the levy of the tax." (emphasis added) Thereafter the proposed tax is submitted to a vote and must be "**approved**" by two-thirds of the electorate. The Board of Supervisors thus **proposes** the tax and the electorate thereafter **approves** it.

On March 18, 2003, this Board scheduled a public hearing for April 1, 2003 to consider and approve a mailed ballot special tax election within the District. On April 1, 2003, this board acted on an agenda item which read: "Acting as governing body of County Service Area 70, Improvement Zone G (Oak Springs), conduct a public hearing **to consider a special tax mailed ballot election to approve a special tax** of \$375 per parcel per year for road paving and increased road grading beginning FY 2003/2004." On June 3, 2003, the Board approved the confirmation of the mailed ballot results that authorized a special tax to be placed on the 2003/04 tax roll for road paving.

Although the April 1, 2003 agenda item authorized and called the appropriate public hearing, and the recommendation and background information contained all of the requirements of Government Code section 50077, i.e. type of tax (special) and rate of tax to be levied (\$375 per parcel per year), the method of collection (placement on the tax roll), and the election date (all mail ballots had to be received by May 9, 2003), and thus expressed the direction of the Board, it failed to contain an action item to "**propose**" the adoption of a special tax, nor was the proposed special tax embodied in an **ordinance** or **resolution**, as required by Government Code Section 50077, subsection (a). Despite these omissions, the direction of the Board was clear and the election went forward, the ballots were tabulated, and the special tax has been approved by more than 2/3rds of the registered voters voting on the measure.

Record of Action of the Board of Supervisors

RESOLUTION CONFIRMING THE PROPOSAL OF A SPECIAL TAX IN COUNTY SERVICE AREA 70, IMPROVEMENT ZONE G (OAK SPRINGS), CONFIRMING THE RESULTS OF A MAILED BALLOT SPECIAL TAX ELECTION, AND CONFIRMING ALL OTHER ACTIONS TAKEN RELATED TO SAID ELECTION

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This proposed action will correct these omissions by confirming the proposal of a special tax by resolution, which resolution contains all of the items required by Government Code section 50077.

REVIEW BY OTHERS: This action has been reviewed by County Counsel (Daniel B. Haueter, Chief Deputy County Counsel and L. Thomas Krahelski, Deputy County Counsel) on June 13, 2003, and by the County Administrative Office (Wayne Thies, Administrative Analyst) on June 27, 2003.

FINANCIAL IMPACT: The additional revenue from the special tax will be included in the District's fiscal year 2003-2004 budget (SLG-155).

SUPERVISORIAL DISTRICT(S): First

PRESENTER: Emil A. Marzullo, Director, 387-5950

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